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**ARIZONA CORPORATION COMMISSION**

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May 5, 2006

Chairman Jeff Hatch-Miller  
Commissioner William A. Mundell  
Commissioner Marc Spitzer  
Commission Mike Gleason

**Re: Orders Preliminary, Docket No. ACC-00000C-05-0037**

Dear Colleagues:

Last year the Commission opened a generic docket to explore the use of Orders Preliminary for new Certificates of Convenience and Necessity ("CC&N") and extensions of existing CC&Ns. Since the docket was opened on January 19, 2005, the Commission has received two responses from Arizona public service corporations.<sup>1</sup> It is my belief that the Commission should move forward with the issuance of Orders Preliminary for all future water company CC&Ns.

Pursuant to ARS § 40-282, the Commission may issue an Order Preliminary, which requires applicants to meet all of the conditions of the Order prior to being granted a CC&N.<sup>2</sup> Once the applicant meets these conditions, it is required to file this information with the Commission at which time the Commission will make a final determination of whether to grant the CC&N.

With the explosive growth currently underway outside of Arizona's Active Management Areas ("AMA") it is imperative that we take the necessary steps to protect the public interest before granting water companies a CC&N to serve in these regions. Among the most important hurdles that should be cleared by applicants prior to the granting of a license is the determination of an assured water supply. As you know, under the current system of granting conditional CC&Ns, a water company may be granted a license before having proven an assured supply of water through the Arizona Department of Water Resources. Unfortunately, inherent in this practice is the possibility that the Commission could someday grant a CC&N and later find that the

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<sup>1</sup> Constellation New Energy and Strategic Energy filed comments on March 30, 2005. They wrote in support of the Commission continuing the issuance of conditional approvals, but preventing the applicant from serving customers within the CC&N until all conditions have been fulfilled and the applicants has received a confirmation letter from the Commission. Arizona Water Company filed comments on May 18, 2005. They indicated support of the continued issuance of conditional approvals, with the addition of language preventing the applicant from serving customers until all conditions have been fulfilled and the applicant has received a confirmation letter from the Commission.

<sup>2</sup> Orders Preliminary issued by the Commission include Decision No. 41802 (December 29, 1971) granting an Order Preliminary to Morristown Water Company and Decision No. 67586 (February 15, 2005) granting an Order Preliminary to Johnson Utilities.

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developer or water company simply does not have adequate water supplies to sustain the proposed development.

I write today to request that the Commission vote at a future Open Meeting to direct Staff to begin using the Order Preliminary methodology as the norm, rather than the exception (the exception would then be conditional CC&Ns, rather than being the norm they are today) when preparing its recommendations on new or expanded CC&Ns for water companies.

Sincerely,

A handwritten signature in black ink, appearing to read 'K Mayes', with a stylized flourish at the end.

Kris Mayes  
Commissioner

cc: Brian McNeil  
Ernest Johnson  
Lyn Farmer  
Heather Murphy  
Docket